HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI H.L. DATTU, CJ &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

WRIT PETITION (C) NO. 1469 OF 2007

PETITIONERS

1. M/s Bhullar Construction, a partnership firm duly registered under the Indian Partnership Act, 1932, through its partner Shri Jasvinder Singh, son of Shri Harbant Singh, Bhullar Complex, Darri Road, Korba.

2. Shri Jasvinder Singh, S/o Shri Harbant Singh, Aged about 41 years, Partner of M/s Bhullar Complex, Darri Road, Korba.

Versus

RESPONDENTS

1. State of Chhattisgarh, through the Secretary, Ministry of Public Works Department, D.K.S. Bhawan, Raipur.

2. The Chief Engineer, Public Works Department, Raipur.

3. The Executive Engineer, Public Works Department, Baloda Bazar.

4. The Sub Divisional Officer, Public Works Department, Baloda Bazar.

Present :

Shri B.P. Sharma, Advocate with Ku. Madhu Modi, counsel for the petitioners.

Shri N.K. Agrawal, Dy. Advocate General for the State.

ORAL ORDER
(Passed on 13th March, 2007)

The following oral order of the Court was passed by **H.L. Dattu, CJ.**

Though the matter was posted for motion hearing, with the consent of learned counsel for the parties to lis, the matter is taken up for final hearing since the issue involved in this writ petition lies in a very narrow compass.

2) The factual matrix are :

The petitioner is a contractor. The respondents had awarded a contract to the petitioner. While the contractor was executing the work, a show cause notice came to be issued to the petitioner by the respondents asking him to show cause why he should not be blacklisted. Though the show cause notice was served on the petitioner, he did not choose to reply to the notice. The respondents invoking Clause - vii of the Appendix – 4 which is annexed to the contract that was awarded to the petitioner, have blacklisted him by order dated 13-4-2006. It is the correctness or otherwise of the order is the subject matter of this writ petition.

3) Shri Sharma, learned counsel appearing for the petitioners would submit that the order so passed by the respondents is one without authority of law and without jurisdiction and contrary to Clause – vii of the Appendix – 4.

4) Shri Agrawal, learned counsel appearing for the State, tries to justify the order, which cannot be justified.

5) In the instant case while awarding the contract, the contractors were made known that under certain circumstances mentioned in Appendix – 4, a contractor could be blacklisted. Clause – vii of the

Appendix – 4 has now been invoked by the respondents to blacklisting the petitioner.

6) Clause – vii of the Appendix – 4 reads as under :

> "When a contractor/firm leaves a work incomplete on some false pretext or in a manner where Government and public property and safety is put to a grave risk."

7) It is not the case of the respondents that the contractor has left the work incomplete on some false pretext or that the contractor has acted in a manner, which has put the State Government and its property to a grave risk. According to them the work that was carried out by the contractor was not satisfactory. The Clause – vii of the Appendix – 4 would not provide for blacklisting of a contractor on that ground, therefore, in our opinion, the order passed by the respondents is contrary to their own terms and conditions of the contract.

8) In that view of the matter, the relief sought for by the petitioner in this petition requires to be granted. Accordingly the following :

Order

1) The petition is allowed.

2) The impugned order dated 13-4-2006 passed by the respondents is quashed.

3) Ordered accordingly.

Sd/-
Chief Justice

Sd/-
V.K.Shrivastava
Judge